

PUBLIC VERSION

EXHIBIT 1

PUBLIC VERSION

**AMENDED AND RESTATED
AGREEMENT COVERING JOINT USE OF POLES**

BETWEEN

CAROLINA POWER & LIGHT COMPANY

AND

BELLSOUTH TELECOMMUNICATIONS, INC.

CONTRACT NUMBER NC/SCJU000001

EXECUTED: 10-20-00

EFFECTIVE: 01-01-01

APPLICABLE TO THE PAYMENT OF RENTALS FOR THE YEAR 1997 AND THEREAFTER

PUBLIC VERSION

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COVERING JOINT USE OF POLES
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TABLE OF CONTENTS

Article	Subject	Page
I	Definitions	1
II	Territory and Scope of Agreement	2
III	Permission for Joint Use	3
IV	Specifications	3
V	Right-of-Way and Line Clearing	3
VI	Procedure for Establishing Joint Use	4
VII	Erecting, Replacing or Relocating Poles	4
VIII	Maintenance of Poles and Attachments	8
IX	Procedure When Character of Circuits is Changed	8
X	Bonding of Underground Facilities	9
XI	Bills and Payments for Work	9
XII	Abandonment of Jointly Used Poles	9
XIII	Annual Payments	10
XIV	Defaults	11
XV	Rights of Other Parties	11
XVI	Service of Notices	12
XVII	Term and Termination of Agreement	12
XVIII	Assignment of Rights	12
XIX	Liability and Damages	13
XX	Miscellaneous	14

PUBLIC VERSION

THIS Amended and Restated Agreement Covering Joint Use of Poles ("Agreement"), is made this 20th day of October, 2000 by and between Carolina Power & Light Company, a North Carolina corporation, ("CP&L"), and BellSouth Telecommunications, Inc., a Georgia corporation ("BellSouth").

WITNESSETH

WHEREAS, CP&L and BellSouth desire to continue Joint Use of poles and in the future to establish further Joint Use of their respective poles when and where Joint Use shall be of mutual advantage; and

WHEREAS, because of changed conditions and experience gained, and to facilitate administration of Joint Use, the parties desire to amend and restate the contract dated September 29, 1977, between CP&L and BellSouth and to enter into this Agreement giving due recognition to such change of conditions, experience and the effective administration of Joint Use, including recognition of the economics of Joint Use, and such factors as the respective space used by the parties, and the relative positions of the parties on the poles; and

WHEREAS, it is in the mutual interest of the parties to effect an equitable apportionment of the benefits to be derived from the continuation of Joint Use of poles brought about by the inherent differences between the parties in the basic requirements of space, height, and strength of Joint Use poles;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties, for themselves, their successors and assigns, do hereby covenant and agree as follows:

ARTICLE I

DEFINITIONS

For the purpose of this Agreement, the following words shall have the following meanings:

- A. ATTACHMENTS - Materials or apparatus now or hereafter used by either party in the construction, operation or maintenance of its aerial plant carried on poles.
- B. BONDING - The interconnecting of conductive parts, designed to maintain a common electrical potential.
- C. CODE - The then current edition of the National Electrical Safety Code as amended from time to time.
- D. CHANGE IN CHARACTER OF CIRCUIT - A condition that would require an increase in the vertical clearance on a jointly occupied pole or that would preclude Joint Use, as required by the then current edition of the Code.

PUBLIC VERSION

- E. JOINT USE - Maintaining space for the attachments of both parties on the same pole at the same time.
- F. LICENSEE - The party having the right under this Agreement to make Attachments to the Owner's pole.
- G. OWNER - The party owning the pole to which Attachments are made.
- H. REARRANGING - The moving of Attachments from one position to another on the same pole.
- I. RELOCATING - The removal of a pole from one location and setting the new pole at another location.
- J. REPLACING - The removal of a pole and setting another pole in the same general location.
- K. STANDARD JOINT USE POLES - A 40-foot pole which meets the requirements of the Code for support and clearance of electric supply and communications conductors now or hereafter used by either party in the conduct of its business. This definition of a Standard Joint Use Pole is not intended to preclude the use of joint poles shorter than the Standard Joint Use Pole in locations where such poles will meet the known or anticipated requirements of the parties.
- L. TRANSFERRING - The removal of Attachments from one pole and placing them upon another.

ARTICLE II

TERRITORY AND SCOPE OF AGREEMENT

This Agreement shall cover all wood poles of each of the parties and poles of other materials as may be agreeable to each of the parties now existing, hereafter erected or acquired within the common operating areas served by the parties ("poles"), except:

- A. Poles which, in the Owner's judgment should be restricted for reasons of either safety or economy to its own use; and
- B. Poles which carry, or are intended to carry, circuits or equipment of a character that in the Owner's judgment make Joint Use of such poles undesirable for proper rendering of its service now or in the future.

PUBLIC VERSION

**ARTICLE III
PERMISSION FOR JOINT USE**

Subject to the terms and conditions of this Agreement, each party hereby permits Joint Use by the other party of any of its poles in accordance with the following:

- A. The pole space may be used by either party for the purpose of installing and maintaining Attachments if the requirements of the Code are met or if sound engineering practices dictate a higher minimum clearance and agreement is reached by the field representatives, and so long as such use does not unreasonably interfere with the use being made by the other party. CP&L's use of space below BellSouth shall be limited to vertical Attachments unless agreed to by the field representatives and provided all applicable code requirements are met.
- B. The parties agree that all existing Attachments to poles used jointly by the parties shall continue to exist in their current condition as of the date of this Agreement and nothing contained herein shall be construed as requiring either party to remove, transfer, or rearrange any such existing Attachments.

**ARTICLE IV
SPECIFICATIONS**

Joint Use of poles shall at all times be constructed, as a minimum, to be in conformity with terms and provisions of the Code and any agreed upon specifications of the parties.

**ARTICLE V
RIGHT-OF-WAY AND LINE CLEARING**

- A. For new lines the Owner will obtain suitable right-of-way for both parties on joint poles insofar as practicable. Said right-of-way easements shall be in sufficient detail for identification and recording where required, and shall be subject to inspection by the other party upon request.
- B. Where practicable, the right-of-way obtained for new lines shall be of sufficient width to give the right at all times to cut away and keep clear of the line all trees and other obstructions that may endanger the proper maintenance and operation of either party's lines.
- C. The Owner of the line assumes full responsibility for the initial cutting of the undergrowth in the swath. Thereafter, CP&L will cut the swath on a normal recurring cycle. Any additional clearing is the responsibility of the Owner of the facilities requiring the clearing.
- D. The Owner and Licensee will cooperate as far as may be practicable in obtaining right of way for both parties on Joint Use, however, no guarantee is given by the Owner of

PUBLIC VERSION

permission from property owners, municipalities or others for the use of poles by the Licensee. If objection is made thereto and the Licensee is unable to satisfactorily resolve the matter within a reasonable time, the Licensee shall remove its Attachments from the poles involved at its sole expense.

ARTICLE VI PROCEDURE FOR ESTABLISHING JOINT USE

Except as otherwise expressly provided herein, each party shall place, maintain, rearrange, transfer, and remove its own Attachments at its own expense, and shall at all times perform such work promptly and in such a manner as not to interfere with service being supplied or work being done by the other party.

ARTICLE VII ERECTING, REPLACING OR RELOCATING POLES

- A. Except as provided by Article IX, whenever any Jointly Used pole, or any pole about to be so used under the provisions of this Agreement, is insufficient in size or strength for both the existing Attachments and the proposed additional Attachments by the Owner or Licensee or Third Parties (as defined in Article XV (A)) authorized to make Attachments, the Owner shall promptly replace such pole with a new pole of the necessary size or strength, and make such other changes in the existing pole line in which such pole is included, as may be made necessary by the replacement of such pole and the placing of the Licensee's circuits as proposed.
- B. Whenever the Owner is about to erect new poles within the territory covered by this Agreement, either as an additional pole line, as an extension of an existing pole line, other than the cases of changes in the character of circuits covered in Article IX, or as the reconstruction of an existing pole line, it shall notify the Licensee at least seven (7) days before beginning the work (shorter notice may be given in cases of emergency) and may submit with such notice its plans showing the proposed location and size of the new pole, and the character of circuits it will use thereon. The Licensee shall, within three (3) days after receipt of such notice, reply to the Owner, stating whether or not it would like to own the proposed pole line or whether any additional height is required to support its proposed facilities. If additional height is required by the Licensee, either above the Standard Joint Use Pole or the Owner's proposed pole height, whichever is greater, the Licensee shall pay the Owner the cost as shown in Table V of Exhibit B.
- C. In any case where the parties shall conclude arrangements for the Joint Use of any new poles to be erected, the parties shall take into consideration the desirability of having the new pole facilities owned by the party owning the lesser number of poles, due regard being given to the desirability of avoiding mixing ownership in short sections of pole lines. Nothing in this paragraph shall be construed to require the party owning the lesser number of poles to set or replace all poles.

PUBLIC VERSION

- D. Whenever it is necessary to replace or change the location of a Jointly Used pole, by reason of any State, municipal or other governmental requirement or the requirements of a property owner, the Owner shall, before making such replacement or change in location, give notice thereof in writing (except in cases of emergency when oral notice will be given, and subsequently confirmed in writing) to the Licensee, specifying the time of such proposed replacement or relocation, and the Licensee shall, at the time so specified, transfer its Attachment to the new pole or the pole at the new location. The cost of any replacements necessary because of municipal or governmental requirements or property owners shall be borne by the Owner. If additional height is required by the Licensee, either above the Standard Joint Use Pole or the Owner's proposed pole height, whichever is greater, and the entity requiring the replacement or relocation does not pay for the additional height, the Licensee shall pay the Owner the cost as shown in Table V of Exhibit B.
- E. In case of emergency, with the giving of oral notice whenever possible, Licensee may install joint poles and anchors as may be considered necessary for public safety or for rendering of Licensee's customers' service, in which case the Licensee shall be reimbursed by the Owner in accordance with Article VII, Section F8. For pole installations made at times other than normal working hours, the charges computed in accordance with this Section will be multiplied by a factor as shown in Table VI of Exhibit B.
- F. The costs of erecting Joint Use Poles, either as new pole lines, as extensions of existing pole lines, or to replace existing poles, whether such poles are existing Jointly Used poles or poles not previously involved in Joint Use, shall be borne by the parties as follows:
1. For new pole lines or extensions of existing pole lines, a Standard Joint Use Pole, or a Joint Use pole shorter than the Standard Joint Use Pole, shall be erected at the sole expense of the Owner.
 2. The cost of additional Standard Joint Use Poles or a pole smaller than the Standard Joint Use Pole installed for the benefit of both parties shall be borne by the Owner.
 3. A pole taller than the Standard Joint Use Pole, the extra height which is due wholly to the Owner's requirements, shall be erected at the sole expense of the Owner.
 4. If the existing pole is adequate to support the existing Attachments of both parties and the Licensee requires additional height, the Licensee shall pay the Owner the cost as shown in Table I of Exhibit B and computed based on the size of the pole installed.
 5. If the Licensee requires additional poles to be installed, within an existing line, for the principal benefit of the Licensee, the Licensee shall pay the Owner the cost as shown in Table IV of Exhibit B and computed based on the size of the pole installed.
 6. If the existing pole is inadequate to support the existing Attachments of either or

PUBLIC VERSION

both parties and the pole must be replaced, such as in order to meet Code requirements, or for reasons otherwise deemed necessary or desirable, the party responsible for the costs is determined as follows:

- a. If the problem exists because the Owner's facilities or a third party's facilities are not installed to meet the Code requirements, the pole shall be replaced at the sole expense of the Owner. This does not in any way inhibit the Owner's ability to recover the cost of the pole replacement from the Third Party.
 - b. If the problem exists because the Licensee's facilities are not installed to meet the Code requirements, the pole shall be replaced and the Licensee shall pay the Owner the full cost as shown in Table I of Exhibit B and computed based on the size of the pole installed.
 - c. If the determination cannot be made as to the party responsible for the Code problem or if the parties agree that the pole replacement is desirable from the standpoint of both parties, the pole shall be replaced and the Licensee shall pay the Owner one-half the cost as shown in Table I of Exhibit B and computed based on the size of the pole installed.
7. If the Owner is installing or replacing a pole at the Owner's or a Third Party's expense and the Licensee requires additional height, either above the Standard Joint Use Pole or the pole height being proposed for installation by the Owner, whichever is greater, the Licensee shall pay the Owner the cost as shown in Table V of Exhibit B.
 8. In the event that the Owner of the pole cannot perform the necessary work in time to meet the Licensee's service commitments to its customers, Licensee may perform the work as follows:
 - a. If the Licensee must replace the Owner's pole and the Owner wishes to retain ownership of the pole, the Owner shall pay the Licensee the cost as shown in Table IV of Exhibit B and computed based on the size of the pole installed. The Owner shall deface the ownership portion of the birthmark on the pole and clearly mark the pole to signify its ownership.
 - b. If the Licensee must set the Owner's pole and the Owner delivers the pole to the job site or an agreed upon location, the Owner shall pay the Licensee the cost as shown in Table II of Exhibit B and computed from the size of the pole set.
 - c. If the Licensee must remove the Owner's pole and dispose of the pole, the Owner shall pay the Licensee the cost as shown in Table III of Exhibit B and computed based on the size of the pole removed.
 9. The pole replacement is due solely to the existing Joint Use pole being of insufficient strength, the pole shall be replaced using the appropriate size standard class pole as

PUBLIC VERSION

stocked by the parties and shown in Exhibit C sufficient to meet the required height and class (Exhibit C shows the pole size necessary to obtain the proper size and class pole required). If the increased class level is due to the requirements of the Licensee, the Licensee shall pay the Owner the cost as shown in Table I of Exhibit B and computed based on the height of the standard class pole used. If the required pole height and class is not covered on Exhibit C, the party requiring the additional strength must provide the pole.

- G. When replacing a Jointly Used pole carrying terminals, underground connections or dead ending equipment, the new pole shall be set near the old pole to facilitate the transfer of the other party's Attachments. If the pole must be set in the same hole which the replaced pole occupied, the Licensee shall pay the Owner the actual cost of the job, including transfer costs which exceed the normal cost of replacing the pole.
- H. Any payments made by the Licensee under the foregoing provisions of this Article shall not in any way affect the ownership of said poles.
- I. When the Owner of an existing pole is to sell the pole in place to the Licensee, the Licensee shall pay the Owner the cost as shown in the table on Exhibit D. This cost shall be derived by using the year and the height of the pole as shown on the birthmark.
- J. If CP&L and BellSouth are unable to agree on a facilities transfer contract which allows for the transfer of BellSouth's Attachments to a CP&L pole when a new pole is set, then BellSouth shall pay CP&L for the cost of removal of the old pole as set forth in Table III of Exhibit B. This cost will only apply if BellSouth's Attachments are the only reason prohibiting the removal of the pole stub at the time of the pole replacement.
- K. At the end of the first calendar year following the execution of this Agreement, and every calendar year thereafter, the pole charges specified as Exhibit B and Exhibit D shall be subject to revision, upon written request of either party. Unless the receiving party objects to revisions of the pole charges, the new rates shall become effective 60 days after the date of such revisions. The revised Exhibits will be mailed no later than November 1st and the approval shall be received prior to December 31st and will take effect on January 1st. Revisions of the pole charges in Exhibit B and D shall be computed as follows:
 - 1. Exhibit B revisions are based on the percentage change as shown in Handy Whitman Index and computed by comparing the present year July figure for FERC account 364 to the previous year July figure for FERC account 364. This percentage change will be applied to the costs as shown in the then current Exhibit B.
 - 2. Exhibit D shall be computed by using CP&L's present day pole cost for the poles from thirty (30) feet to sixty-five (65) feet inclusive, and this cost will be depreciated on a straight line basis by four percent (4%) per year.

If within sixty (60) days after the receipt of a request for revision of the pole charges by either party from the other, the receiving party objects to the revision and the parties fail to agree

PUBLIC VERSION

upon such revision, then the amount to be billed thereafter for such pole work shall be the actual cost of the work including transfer cost.

ARTICLE VIII MAINTENANCE OF POLES AND ATTACHMENTS

- A. The Owner shall, at its own expense, maintain its Joint Use poles in a safe and serviceable condition, and in accordance with Article IV of this Agreement and shall replace such poles that become defective.
- B. Each party shall, at its own expense, at all times maintain all of its Attachments in accordance with Article IV of this Agreement and keep them in safe condition and in thorough repair.

ARTICLE IX PROCEDURE WHEN CHARACTER OF CIRCUITS IS CHANGED

When either party desires to change the character of its circuits on Jointly Used poles, e.g. re-phasing line or adding additional circuits, such party shall give sixty (60) days' written notice to the other party of such contemplated change if the change will cause work for the other party. If the other party desires to continue Joint Use of poles with such changed circuits, it shall agree in writing within thirty (30) days of receipt of notice and the Joint Use of such poles shall continue. Any changes in construction as may be required to meet the requirements of the Code will be at the expense of the party desiring to make the change in the character of its circuits. If the other party does not agree to such changes then both parties shall cooperate in accordance with the following plan:

- A. The parties shall determine the most practical and economical method of effectively providing for separate lines, if required, and the party whose circuits are to be moved shall promptly carry out the necessary work.
- B. The cost of reestablishing such moved or replaced circuits in the same or new location shall be borne by the owner of such circuits.
- C. The ownership of any new line constructed under the foregoing provision in a new location shall vest in the party for whose use it is constructed. The cost of establishing service in the new location shall be exclusive of any increased cost due to the substitution for existing facilities or other facilities of a substantially new or improved type or of increased capacity, but shall include among other items the cost of the new pole line including poles, rights-of-way, the cost of removing Attachments from the old poles to the new location and the cost of placing the Attachments on the poles in the new location. Title to the existing poles shall automatically vest in or remain with the party whose circuits will continue to remain in the existing location. Where transfer of existing title of existing poles under this Article IX is involved, compensation shall not be made.

PUBLIC VERSION

- D. The effect of any change in the character of circuits by either party shall not be deemed to constitute an abandonment of Joint Use Poles as contemplated in Article XII.
- E. It is agreed that should a change in character of circuits require the removal and placement of such circuits to a new location, the party so removing shall reconstruct its facilities at such a location and in such a manner as to assure no adverse effects upon the continued use by the other party of its facilities in the existing location, and shall hold said other party harmless from technical and other interference to the continued operations of said facilities.
- F. If the Licensee requires five or more poles to be replaced because of a change in the character of its circuits and the Owner determines that the cost of the work would impose an extraordinary economic burden on the Owner if performed under the costs established herein, then the Licensee will pay the Owner the actual cost of the work including transfer cost.

ARTICLE X BONDING OF UNDERGROUND FACILITIES

CP&L and BellSouth agree to participate in the bonding of electrical and telecommunications facilities wherever both parties agree that it is practical or required by the Code. Both parties agree that when bonding of underground facilities becomes necessary due to the close proximity of the electrical and telecommunication facilities, the cost to the party requesting the installation of the bond will be in accordance with the schedule of charges shown in Table VI of Exhibit B.

ARTICLE XI BILLS AND PAYMENTS FOR WORK

Upon the completion of work performed hereunder by either party, the expense of which is to be borne wholly or in part by the other party, the party that performed the work shall present to the other party, within sixty (60) days after the completion of such work, a statement describing the work performed and showing the amount due, and such other party shall, within sixty (60) days after receipt of such statement, pay the party that performed the work the amount due.

ARTICLE XII ABANDONMENT OF JOINTLY USED POLES

- A. If the Owner desires at any time to abandon a Joint Use pole, it shall give the Licensee notice in writing at least thirty (30) days prior to the date on which it intends to abandon such pole. If, at the expiration of said period, the Owner has removed all of its Attachments from such pole but the Licensee has not removed all of its Attachments, such pole shall then become the property of the Licensee. The Licensee shall save harmless the former Owner of such pole from all obligations, liability, damages, cost, expenses or charges incurred thereafter, because of, or arising out of, the presence or condition of such

pole or any Attachments thereon; and shall pay the former Owner a sum equal to the then in-place value of the abandoned pole as shown in Exhibit D, but not exceeding the in-place value of a Standard Joint Use Pole of the age of the pole being abandoned.

- B. If the Owner abandons a pole and the Licensee becomes the new Owner as set forth above, the new Owner shall deface the birthmark on the pole and clearly mark the pole to signify its ownership.
- C. The Licensee may at any time abandon the use of a Joint Use pole by removing any and all of its Attachments from such pole.

ARTICLE XIII ANNUAL PAYMENTS

- A. On or about November 1st of each year, each party shall conduct a field survey or otherwise ascertain and tabulate the total number of poles in use by each party as Licensee. An annual adjustment payment will be due based on such tabulation. In order to avoid the burdensome expense of making a field survey each year, the parties shall jointly make an initial 100 percent field survey (unless the parties agree on a method other than a 100 percent field survey) in 2000 and at five (5) year intervals thereafter. For the interim years the parties shall use estimates, subject to adjustment as provided for in Section B of this Article, of the numbers of poles for which the respective parties are Licensees.
- B. The parties shall use the results of each field survey to adjust the estimates of poles and provide a true-up of billings for the interim years. This true-up shall be calculated by determining the difference between the current and previous actual number of Joint Use Poles for which a party is a Licensee as determined from the previous and new field surveys.
- C. The rental rate for Attachments under this Agreement shall be as follows: (i) \$[REDACTED] per pole per annum shall be paid by CP&L as Licensee; and (ii) \$[REDACTED] per pole per annum shall be paid by BellSouth as Licensee. These rental rates, beginning with the calendar year following the effective date of this Agreement, shall be adjusted annually by the percentage as calculated by dividing the current year July Index rate by the previous year July Index rate. The values used in determining this percentage are as shown in the Handy Whitman Index in category FERC Account 364.

The annual payments due from each party as Licensees shall be compared and the lesser amount shall be deducted from the greater amount and the party which was due the greater amount shall render a bill no later than December 1st to the other party for the difference between such amounts. Payment shall be due no later than December 31st.

- D. Either party may make a request for review of the pricing methodology and the costs set forth in the Exhibits to this Agreement no sooner than at five (5) year intervals. This request must be in writing and forwarded to the other party as specified in Article XVI.

- E. The party receiving the request for review must respond in writing within sixty (60) days. If the parties fail to agree upon a new pricing methodology for either the annual rental or the attached Exhibits B and D, the existing methodology will remain in force.
- F. Nothing in this Agreement shall preclude either party from the right to change the pole rental rate herein or other terms and conditions of this Agreement, in order to comply with the then current state or federal law and regulations of the applicable state regulatory agency, the Federal Communications Commission, or the Federal Energy Regulatory Commission.

ARTICLE XIV DEFAULTS

- A. If either party defaults in any of its obligations under this Agreement and such default continues for thirty (30) days after receipt of written notice from the other party, all rights of the party in default hereunder shall be suspended, including its right to occupy additional Jointly Used poles, and if such default continues for a period of thirty (30) days after such suspension, the other party may refuse to grant further Joint Use.
- B. If either party defaults in the performance of any work which it is obligated to do under this Agreement at its sole expense, the other party may elect to do such work and the defaulting party shall reimburse the other party for the cost thereof. Failure to make such payment within thirty (30) days from receipt of bills therefor shall, at the election of the other party, constitute a default under Section A of this Article.

ARTICLE XV RIGHTS OF OTHER PARTIES

- A. If either party has, prior to the execution of this Agreement, conferred upon others not parties to this Agreement ("Third Parties") by contract or otherwise, rights or privileges to attach to any of its poles covered by this Agreement, nothing herein shall be construed as affecting said rights or privileges with respect to existing Attachments of such Third Parties, which Attachments shall continue in accordance with the present practice. All future Attachments of such Third Parties shall be in accordance with the requirements of Section B of this Article except where such Third Parties have, by agreements entered into prior to the execution of this Agreement, acquired enforceable rights or privileges to make Attachments. The Owner shall derive all of the Attachment rentals accruing from such outside parties. Any contractual rights or privileges of Third Parties recognized in this paragraph shall include renewals of or extensions of the terms of such contracts.
- B. If either party desires to confer upon Third Parties, by contract or otherwise, rights or privileges to attach to any of its poles covered by this Agreement, it shall have the right to do so provided all such Attachments are made in accordance with and are maintained in conformity with the requirements of the Code, and do not interfere with rights set forth in this Agreement.

PUBLIC VERSION

- C. With respect to any rights and privileges granted under this Article to Third Parties, the Licensee may require that such Third Parties pay to the Licensee the estimated cost associated with transferring and rearranging the Licensee's Attachments.
- D. For the purpose of this Agreement, all Attachments of any such Third Parties shall be treated as Attachments belonging to the Owner, and the rights, obligations and liabilities hereunder of the Owner in respect to such Attachments shall be the same as if it were the actual Owner thereof.

ARTICLE XVI SERVICE OF NOTICES

All notices required to be given hereunder shall be in writing and delivered by, mail, telecopier, overnight carrier, or personal delivery, to CP&L at its General Office at Raleigh, North Carolina, or BellSouth at its Area Office at Charlotte, North Carolina, or Columbia, South Carolina as the case may be, or to such other address as either party may, from time to time, designate in writing for that purpose.

ARTICLE XVII TERM AND TERMINATION OF AGREEMENT

- A. This Agreement, effective as of the date set forth above, shall continue in force until terminated by either party as set forth below, or as otherwise provided herein.
- B. Either party may terminate, upon one (1) year's notice in writing to the other party, the right to make additional Attachments. Any such termination of the right to make additional Attachments shall not, however, abrogate or terminate the right of either party to maintain the existing Attachments on the poles of the other and all such existing Attachments shall continue pursuant to and in accordance with the terms of this Agreement.

ARTICLE XVIII ASSIGNMENT OF RIGHTS

Except as otherwise provided in this Agreement, neither party may assign this Agreement without the written consent of the other party; except that either party shall have the right to mortgage any or all of its property, rights, privileges and franchises, or to lease or transfer any of them to another corporation controlling, controlled by, or under common control with the transferring party, or enter into any merger or consolidation. In case of the foreclosure of such mortgage, or in case of such lease, transfer, merger, or consolidation, its rights and obligations hereunder shall pass to such successors and assigns.

ARTICLE XIX
LIABILITY AND DAMAGES

- A. Whenever an employee of either party sustains an injury arising out of and in the course of his employment which is compensable under any applicable Workers' Compensation Law, if such injury arises out of the existence of conditions resulting from the joint occupancy of poles under this Agreement, then the employer of such injured employee shall indemnify, make whole and in all respects save harmless the other party from all loss, cost, damage, and expense, including attorneys' fees reasonably incurred by it in connection with any claim made or suit prosecuted or judgment obtained on account of such injury;
- B. Whenever the property of either party sustains damage arising out of the existence of conditions resulting from the joint occupancy of poles under this Agreement, then the party whose property was so damaged shall have no claim against the other party therefor, except in instances where such damage results from actionable negligence on the part of said other party not concurred in by the owner of such injured property.
- C. Each party shall indemnify, defend, and save harmless the other from all liability, loss, cost, expense, damage, judgment, and claim for injury to the person or damage to the property of members of the public, arising out of the joint occupancy of any pole or the exercise of any other right hereunder, and resulting from its actionable negligence not concurred in by the other.
- D. Whenever an injury, redressable by action at common law, is sustained by the person or property of a member of the public, arising out of the joint occupancy of any pole or the exercise of any other right hereunder, which injury was caused by the concurrent negligence of both parties hereto, or the cause of which cannot be attributed to the sole negligence of one of the parties, and a claim of damages for such injury is settled by, or an action to recover damages therefor is prosecuted to recovery against, one or both of the parties, then each party hereby agrees to indemnify and save harmless the party who made such settlement or against whom such recovery is had, to the extent of one-half (1/2) of all the loss, cost, and expense incurred in settling such claim or defending such action and in paying any judgment recovered against it. Each party agrees to timely notify the other party of any such injury or claim and shall permit such other party to participate in the defense and settlement of such claims or any action filed to recover damages against one or both parties. Each party further agrees that the foregoing provisions of this Section D shall constitute the sole and exclusive remedy against each other with respect to such injuries, claims or actions, in lieu of actions under N.C. Gen. Stat. §§ 1B-1 *et seq.*


PUBLIC VERSION

ARTICLE XX
MISCELLANEOUS

- A. Non-Waiver. The failure of either party to enforce or insist upon compliance with any of the terms and conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or condition, but the same shall be and remain at all times in full force and effect.
- B. Governing Law. This Agreement shall be governed by the laws of the State of North Carolina, except that the North Carolina conflict-of-laws provisions shall not be invoked in order to apply the laws of another state or jurisdiction.
- C. Severability. In the event any provision of this Agreement is for any reason held to be invalid, illegal or unenforceable in any respect, the remaining provisions will remain in full force and effect.
- D. Supplemental Routines and Practices. Nothing in the foregoing shall preclude the parties to this Agreement from preparing such supplemental operating routines or working practices as they determine are necessary or desirable to effectively administer the provisions of this Agreement. Any such supplemental routines or practices must be approved by each party's representative authorized to execute this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

CAROLINA POWER & LIGHT




C. H. Cline, Jr.
Vice President

Distribution, Engineering & Operations

Date 10-19-00

BELLSOUTH

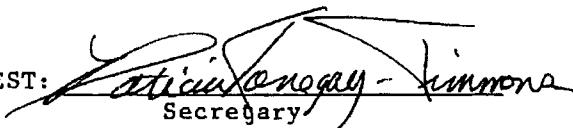
TELECOMMUNICATIONS, INC.



J. H. Becker
Network Vice President-NC/SC

Date 11-08-00

ATTEST:



Secretary

ATTEST:



PUBLIC VERSION

CERTIFICATE

I, Leigh Ann Dolan, an Assistant Secretary of BellSouth Telecommunications, Inc., a Georgia corporation (the "Company"), hereby certify that:

1. Pursuant to the Company's Bylaws, the President of the Company has delegated authority to officers, agents, and employees to enter into contracts and agreements on behalf of and in the name of the Company; and
2. In accordance with such delegations, J. H. Becker, Network Vice President – NC/SC, has authority to negotiate, execute and deliver on behalf of the Company, agreements and contracts, such as the following:

Contract for Joint Use of Poles, between BellSouth Telecommunications, Inc. and Carolina Power & Light Company

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Company this 16th day of November, 2000.


Leigh Ann Dolan, Assistant Secretary

[Corporate Seal]

EXHIBIT B
EFFECTIVE DATE 01/01/00TABLE I
REPLACE POLE

New Pole Height	50 Foot Pole or Less	55 Foot Pole	60 Foot Pole	65 Foot Pole
Replacement Cost	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

TABLE II
SET POLE

Pole Height	50 Foot Pole or Less	55 Foot Pole	60 Foot Pole	65 Foot Pole
Set Cost	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

TABLE III
REMOVE POLE

Pole Height	50 Foot Pole or Less	55 Foot Pole	60 Foot Pole	65 Foot Pole
Removal Cost	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

TABLE IV
INSTALL AN ADDITIONAL POLE
OR SET AND SELL A POLE

Pole Height	50 Foot Pole or Less	55 Foot Pole	60 Foot Pole	65 Foot Pole
Install Cost	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

TABLE V
ADDITIONAL POLE HEIGHT

Price For Each Additional Five Foot of Pole Height for Licensee When Pole is Replaced	\$ [REDACTED]
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TABLE VI
COST ADDERS DUE TO FIELD CONDITIONS OR SPECIAL REQUEST

Set pole in rock or concrete OR repair concrete around old pole hole	\$ [REDACTED]
Provide bonding conductor - when completed at initial installation of transformer (CP&L will provide a #6 bare copper conductor to a point outside the transformer.)	\$ [REDACTED]
Provide bonding conductor - all additional bonds within project -After transformer is energized. (CP&L will provide a #6 bare copper conductor to a point outside the transformer.)	\$ [REDACTED]
Work performed during overtime hours	Contract \$ X 1.5

PUBLIC VERSION

EXHIBIT C
EFFECTIVE DATE 01/01/00

POLE CLASS EXHIBIT

STANDARD POLE CLASS


POLE HEIGHT	STANDARD CLASS	POLE HEIGHT	STANDARD CLASS
30 FEET	CLASS 6	50 FEET	CLASS 3
35 FEET	CLASS 5	55 FEET	CLASS 3
40 FEET	CLASS 5	60 FEET	CLASS 3
45 FEET	CLASS 4	65 FEET	CLASS 3

METHOD FOR ESTABLISHING NON-STANDARD POLE CLASS

POLE HEIGHT AND CLASS DESIRED	POLE HEIGHT REQUIRED TO OBTAIN NECESSARY CLASS	POLE HEIGHT THAT MUST BE REMOVED
30' CLASS 5	35' CLASS 5	5 FEET
30' CLASS 4	40' CLASS 5	10 FEET
35' CLASS 4	45' CLASS 4	10 FEET
35' CLASS 3	45' CLASS 4	10 FEET
40' CLASS 4	45' CLASS 4	5 FEET
40' CLASS 3	50' CLASS 3	10 FEET
40' CLASS 2	50' CLASS 3	10 FEET
45' CLASS 3	50' CLASS 3	5 FEET
45' CLASS 2	55' CLASS 3	10 FEET
50' CLASS 2	60' CLASS 3	10 FEET
55' CLASS 2	65' CLASS 3	10 FEET

* Any pole class requirement above what is provided for in the above table must be provided by the party requiring the stronger class pole.

IN PLACE VALUE OF EXISTING POLES

YEAR INSTALLED	YEARS DEPR.	30 FT	35 FT	40 FT	45 FT	50 FT	55 FT	60 FT	65 FT
2000	0								
1999	1								
1998	2								
1997	3								
1996	4								
1995	5								
1994	6								
1993	7								
1992	8								
1991	9								
1990	10								
1989	11								
1988	12								
1987	13								
1986	14								
1985	15								
1984	16								
1983	17								
1982	18								
1981	19								
1980	20								
1979	21								
1978	22								
1977	23								
1976	24								

Note for Exhibit D:

The value as shown in year twenty-four (24) shall be used for all poles older than twenty four years;


APPROVED FOR:
Carolina Power & Light Company

By


M. A. England
Engineering & Operation Support
Manager

APPROVED FOR:

By


J. H. Becker
Network Vice President - NC/SC.